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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/957,018	09/20/2001	James E. Kaminkow	0112300-581	2458

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EXAMINER

ASHBURN, STEVEN L

ART UNIT PAPER NUMBER

3714

DATE MAILED: 05/21/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/957,018

Applicant(s)

KAMINKOW, JAMES E.

Examiner

Steven Ashburn

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 February 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

Claims 1-6, 8-18 and 20-25 are rejected under 35 U.S.C. 102(b) as being anticipated by Ludlow et al., U.S. Patent 5,364,100 (Nov. 15, 1994).

Ludlow discloses a gaming machine having a set of reels wherein two of the reels may be shielded from a player's view. The player may selectively reveals the shielded symbols. The revealed symbols are combined with the other visible symbols to determine whether or not there is a winning combination. As discussed below, Ludlow teaches each and every feature of the listed claims.

Claims 1, 6, 8, 9, 14, 15, 16, 18, 21, 23 and 25.

- a. A display device. *See col. 1:8-10, 1:40-43.* Ludlow displays symbols on reels.
- b. A processor in communication with the display device. *See 1:42-46.* Ludlow describes a gaming machine that randomly selects outcomes prior to spinning the reels. *See id.* It is implicit that this function is performed by a processor.
- c. A plurality of inputs adapted to be displayed by the player by the display device and a plurality of values associated with the inputs. *See col. 1:65-67.* The device accepts inputs from the player to cause the reels to spin and to reveal the concealed symbols. *See id.* In the described embodiment, the symbols are fruits which have an associated value. *See col. 1:47-50.* The examiner notes that Ludlow suggests replacing the fruit with other types symbols (e.g. playing cards). *See col. 2:24-28.*
- d. At least one set of a plurality of values determined by the player's selection of the inputs. *See id.* As above, the player's inputs results in a selection of symbols from the plurality of symbols.
- e. At least one award generated by the processor by selecting at least one but not all of the plurality of values of the set. *See 1:47-52, 1:65-2:6.* Ludlow produces a set of values comprised

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of the five reel symbols displayed when the reels stop rotating. *See id.* From this set of five reels, a combination of at least three symbols is selected and used to determine whether or not a player should win a prize. *See id.*

Claims 2, 10, 17, 20, 22 and 24. Ludlow implicitly discloses a processor that selects the largest value from the sets. The reference describes a poker embodiment. *See col. 2:22-29.* In a poker game, an outcome set may have more than one award associated with the combination of symbols contained in the set. For example, a set of comprised of four cards might simultaneously contain outcomes including a pair, two-pairs, four-of-a-kind, and a flush. The processor would select the highest value (e.g. four-of-a-kind) combination and award the player the associated prize.

Claims 3, 4, 11, 12. Ludlow additionally discloses selecting at least one, but not all of the values of a set and providing a resulting award to the player by performing at least one mathematical operation on the awards from the sets. *See col. 1:47-52.*

Claim Rejections - 35 USC § 103

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ludlow in view of Thomas 6,190,255 (Feb. 20, 2001) (“Thomas ‘255”).

Ludlow does not describe revealing values associated with inputs that are not selected by the player. Regardless, it would have been within the ordinary skill of an artisan to modify Ludlow to add this feature. Revealing unselected picks is a technique commonly used in games of chance to increase players’ enjoyment of a game by satisfying their curiosity of foregone opportunities. For example, Thomas ‘255 discloses an analogous gaming device in which players make selection from a set of hidden selections. *See col. 12:39-45.* In one embodiment, the game display reveals the outcomes off all the

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unselected picks at the end of the game. *See col. 12:20-28*. Thus, it would have been obvious to an artisan at the time of the invention to modify the gaming device disclosed by Ludlow, wherein a player chooses to reveal hidden outcomes, to add the feature of revealing values associated with inputs that are not selected by the player and thereby increase players' enjoyment of a game by satisfying their curiosity of foregone opportunities.

Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ludlow in view of Vancura, U.S. 6,059,289 (Mar. 7, 2000).

Ludlow does not describe performing mathematical operations selected from the set of addition, subtraction and division. Regardless, it would have been within the ordinary skill of an artisan to modify Ludlow to add this feature. Vancura discloses an analogous gaming machine in which the reel values are combined by addition, subtraction and multiplication. *See fig. 5(45)*. Although it does not describe division, the function is equivalent to multiplication wherein the factor is less than one (e.g. $1/3 = 1*0.33$). Thus, it would have been obvious to an artisan at the time of the invention to modify the gaming device disclosed by Ludlow to add the feature of performing mathematical operations selected from the set of addition, subtraction and division. As taught by Vancura, the modification would allow the game operator to vary the odds such that the payout of the game is independent upon the number of coins used to initiate the game. *See col. 12:35-39*. Furthermore, as seen in Vancura, the variation would enhance the excitement of the game by providing the risk that a player's selection may result in a loss of value.

Response to Arguments

The rejection of claims 2, 10, 17, 22 and 24 are under 35 U.S.C. 112, second paragraph is withdrawn

Applicant's arguments with respect to claims 1-25 have been considered but are moot in view of the new grounds of rejection necessitated by the applicant's amendment.

Prior Art, Not Relied On

The following prior art of record is not relied upon but is considered pertinent to applicant's disclosure: U.S. 6,609,972 B2 discloses a gaming device which displays a random set of values from which a set of two values are selected by the processor and, subsequently, one value is selected by a player.

If a copy of a provisional application listed on the bottom portion of the accompanying Notice of References Cited (PTO-892) form is not included with this Office action and the PTO-892 has been annotated to indicate that the copy was not readily available, it is because the copy could not be readily obtained when the Office action was mailed. Should applicant desire a copy of such a provisional application, applicant should promptly request the copy from the Office of Public Records (OPR) in accordance with 37 CFR 1.14(a)(1)(iv), paying the required fee under 37 CFR 1.19(b)(1). If a copy is ordered from OPR, the shortened statutory period for reply to this Office action will not be reset under MPEP § 710.06 unless applicant can demonstrate a substantial delay by the Office in fulfilling the order for the copy of the provisional application. Where the applicant has been notified on the PTO-892 that a copy of the provisional application is not readily available, the provision of MPEP § 707.05(a) that a copy of the cited reference will be automatically furnished without charge will not apply.


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Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a). A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven Ashburn whose telephone number is 703 305 3543. The examiner can normally be reached on Monday thru Friday, 8:00 AM to 4:30 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Hughes can be reached on 703-308-1806. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



MARK SAGER
PRIMARY EXAMINER

s.a.